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Sentence

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

15 Cr. 0537(VEC)

5 DARRYL WHITLEY,

6 Defendant.

7 -----x

8  
9 May 1, 2017  
1:17 p.m.

10 Before:

11 HON. VALERIE E. CAPRONI,

12 District Judge

13  
14 APPEARANCES

15 JOON H. KIM

Acting United States Attorney for the  
Southern District of New York

16 BY: ANDREW ADAMS

17 Assistant United States Attorney

18 MICHAEL K. BACHRACH

Attorney for Defendant

19 - and -

ADAMS & COMMISSIONG LLP

20 BY: KARLOFF C. COMMISSIONG

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1 THE CLERK: United States of America versus Darryl  
2 Whitley. All counsel, please identify yourselves for the  
3 record.

4 MR. ADAMS: Good afternoon, your Honor. Andrew Adams  
5 for the government.

6 THE COURT: Good afternoon, Mr. Adams.

7 MR. BACHRACH: Good afternoon, your Honor. Michael  
8 Bachrach for the defendant Darryl Whitley as well as my  
9 co-counsel on this case, Karloff Commissiong.

10 MR. COMMISSIONG: Good afternoon, your Honor.

11 THE COURT: Good afternoon.

12 Good afternoon, Mr. Whitley. I'm sorry to keep you  
13 waiting.

14 THE DEFENDANT: Good afternoon, your Honor.

15 THE COURT: OK. Mr. Whitley's plea was entered in  
16 front of the magistrate judge. I have reviewed the transcript  
17 of the plea, and I now accept that guilty plea. I find that  
18 there was an adequate factual basis for the plea, that  
19 Mr. Whitley understood the rights he was giving up and waived  
20 those rights knowingly and voluntarily. I find Mr. Whitley  
21 understood the consequences of his plea, including the  
22 potential sentence that might be imposed, and agreed to forfeit  
23 the proceeds of the crime.

24 Because I find that his plea was entered knowingly and  
25 voluntarily and was supported by an independent factual basis

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1 for each and every element of the crime charged, I accept his  
2 guilty plea.

3 All right. Mr. Bachrach, have you and your client  
4 read the presentence report dated March 24, 2017?

5 MR. BACHRACH: Yes, we have, your Honor.

6 THE COURT: And have you discussed it with each other?

7 MR. BACHRACH: Yes, your Honor.

8 THE COURT: Mr. Whitley, have you read the presentence  
9 report or has someone read it to you?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: And did you discuss it with your lawyer?

12 THE DEFENDANT: Yes.

13 THE COURT: OK. Are there any objections to the  
14 report, Mr. Bachrach?

15 MR. BACHRACH: No, your Honor. All the objections  
16 were taken account of in the last submission.

17 THE COURT: OK. The presentence report will be made  
18 part of the record in this matter and placed under seal. If an  
19 appeal is taken, counsel on appeal may have access to the  
20 sealed report without further application to the Court.

21 I received a sentencing submission from the defense,  
22 dated April 2, 2017, that included letters from a number of  
23 friends of the defendant. If any of you wrote me, thank you  
24 very much. I read all of your letters.

25 I received a supplemental submission on April 17 that

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1 included a letter from the defendant dated April 6. Thank you  
2 very much. I read your letter as well.

3 THE DEFENDANT: You are welcome.

4 THE COURT: I received a letter from the government  
5 dated February 14, 2017, and a letter dated January 5 that laid  
6 out the government's view of the relative culpability of this  
7 defendant compared to his other codefendants. That letter puts  
8 this defendant in the eighth tier, which is at the bottom of  
9 the scale of culpability.

10 The next step is a guidelines calculation.

11 MR. BACHRACH: Your Honor, I am sorry. I just wanted  
12 to make sure you did receive all the documents because there is  
13 one you did not mention, the mitigation report --

14 THE COURT: I received that. That was attached to  
15 your submission.

16 MR. BACHRACH: Thank you, your Honor.

17 THE COURT: I did.

18 OK. The next step is a guidelines' calculation. To  
19 the family members and friends, this is going to sound like a  
20 little bit of gobbledygook but it is required.

21 So the defendant pled guilty to one count of  
22 conspiracy to violate the racketeering laws. In the context of  
23 that conspiracy, the defendant admitted participating in the  
24 robbery of a Chase Bank in LaGrange, New York in January 2016.

25 Pursuant to 2E1.1, the base offense level for

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1 racketeering is 19, or the base offense level of the underlying  
2 crime, whichever is greater. In this case the underlying crime  
3 is robbery, and the base offense level for robbery is found at  
4 2B3.1(a). It is 20. That's greater, so that's the base  
5 offense level.

6 The property of a financial institution was taken, so  
7 pursuant to 2B3.1(b)(1), that's plus two.

8 Mr. Whitley pled guilty so he gets credit for  
9 acceptance of responsibility. That's minus three. That brings  
10 us to a total of 19.

11 Mr. Whitley has no prior criminal history so he is in  
12 Criminal History Category I.

13 Level 19, Criminal History Category I yields a  
14 guideline range of 30 to 37 months.

15 My understanding is that Mr. Whitley has been in  
16 custody for approximately 15 months between state and federal  
17 custody; is that correct?

18 MR. ADAMS: That is correct, your Honor.

19 THE COURT: All right. Are there any guidelines  
20 arguments that I haven't addressed, Mr. Adams?

21 MR. ADAMS: No, your Honor.

22 THE COURT: Mr. Bachrach?

23 MR. BACHRACH: No, your Honor.

24 THE COURT: All right. I don't see a grounds under  
25 the guidelines for a departure.

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Are there any factual issues in dispute?

MR. ADAMS: None for the government.

MR. BACHRACH: No, your Honor.

THE COURT: OK. Would the government like to be heard on sentence?

MR. ADAMS: Your Honor, very briefly. Our January letter lays out Mr. Whitley's relative culpability. He is at the bottom of the stack here. Much like Mr. Geronimo, whom the Court previously sentenced in this case, this is sort of an incident that was serious but does strike us as at least somewhat aberrational. Mr. Whitley has one prior conviction for disorderly conduct previously, but he is certainly not among the members of the YGz with ample prior violence or anything like that.

So I certainly don't want to overstate the case with respect to Mr. Whitley, but I do, as with respect to all of the other members of the bank robbery conspiracy, want to reiterate both for the Court and for the defendant that this was a terrifying experience for the people inside these banks. Even though these were unarmed robberies, the people inside the banks had no idea that that was the case. They were afraid for their safety, for their lives. And the relatively small amount of money that was obtained in the course of this bank robbery doesn't mitigate that in any way. That is a matter of luck, largely, but also I think reflects some sort of the pettiness

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1 of this whole scheme generally. To put people in that amount  
2 of fear for such a small payout I think speaks to a real lack  
3 of moral compass with respect to everyone involved in this  
4 case.

5 THE COURT: Thank you, Mr. Adams.

6 Mr. Bachrach, would you like to be heard?

7 MR. BACHRACH: Yes, your Honor, and I will try to keep  
8 it brief as well, as I feel like I can for the most part rely  
9 upon the written submissions, particularly in light of Mr.  
10 Whitley's what I believe to be powerful letter that he wrote  
11 entirely on his own.

12 The government just really put it perfectly. This was  
13 aberrational. Mr. Whitley, unlike everyone else in the  
14 indictment, Mr. Whitley was not a member of the YGz  
15 organization. The government specifically stated that during  
16 his plea allocution. He was an associate, which legally means  
17 the same thing, because legally you are convicted of  
18 racketeering regardless of whether you are a member or  
19 associate.

20 But as far as what it means for him as a person  
21 individually under 3553(a), there is a significant difference.  
22 It means that on a brief period of his life, without joining --  
23 he didn't join a gang, but for a brief period of his life, he  
24 joined a couple of low-level members of that gang in one very  
25 discrete act, a mistake, a huge mistake. In fact, there were

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1 probably a couple of other small discrete acts along the way,  
2 because you have to have a conspiracy, you have to have an  
3 agreement before you do it. But these were incredibly  
4 aberrational. This wasn't him as the full picture of him.

5 And we know that because of the family support that he  
6 has. And in this room we have his mother, we have his sister,  
7 we have his brother, we have his girlfriend, and we also have  
8 even Ms. Melendez from The Consulting Project. We have  
9 approximately ten letters, I believe, that were submitted, not  
10 including his own, which show the strong family support and the  
11 friends that support him as well. That's important, because if  
12 he was some gangbanger, if he was a member of this dangerous  
13 YGz organization, I suspect you wouldn't see the type of  
14 opportunity -- the type of support he has and the type of  
15 opportunities that he is going to have once he is finally  
16 released.

17 Eagle Academy has offered him a job once he gets out.  
18 That job will allow him to be a mentor to at-risk youth, and  
19 allow him to take his bad experience and take his mistakes and  
20 make something good out of them by making sure that other young  
21 youth who are in a similar situation that he had been don't  
22 make the same mistake that he did. He has that opportunity, if  
23 given by your Honor, and I think, your Honor, he deserves it  
24 greatly.

25 Comparing him to Mr. Geronimo is also a very good



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1 point. Mr. Geronimo, who is listed by the government in that,  
2 just like Mr. Whitley, as that bottom tier defendant, although  
3 he is listed as a low-level member. I think every defense  
4 attorney likes to come in and say that their client is the  
5 lowest guy in the rung. Well, Mr. Whitley really is. Because  
6 Mr. Geronimo was a low-level member and he's in the same  
7 paragraph, the last paragraph, the last tier, but Mr. Whitley  
8 isn't even a low-level member, so he is even less you can say  
9 morally culpable in comparison, or less -- beyond simply the  
10 act of the robbery, he has even less involvement than  
11 Mr. Geronimo.

12 And Mr. Geronimo, however, is a perfect parallel of  
13 defendants to compare him to since under 3553(a), one thing  
14 your Honor needs to avoid is unwarranted sentencing  
15 disparities. Mr. Geronimo, like Mr. Whitley, is a first-time  
16 criminal offender. He is a criminal history category of I. He  
17 was involved, like Mr. Whitley, with only one robbery. And  
18 Mr. Geronimo received a sentence of time served. To avoid  
19 unwarranted sentencing disparities, we believe it is  
20 appropriate to also give a sentence of time served to  
21 Mr. Whitley.

22 There are additional considerations that would advance  
23 that as well. Your Honor, if this sentencing were to take  
24 place after November 1st of this year -- and I understand the  
25 guidelines haven't changed yet, but effective November 1st of

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1 this year, his guideline range will actually be one point lower  
2 because of the fact that he is a first-time criminal offender.  
3 So his guideline range -- the bottom of his guideline range  
4 would be 27 months, not 30 months.

5 Additionally, your Honor, the BOP is not going to give  
6 him credit for the five months he served in state custody.

7 THE COURT: Yes, they will. The presentence report as  
8 written said that they will.

9 MR. BACHRACH: Your Honor, I hope you are right. In  
10 my experience that's not always the case because of the fact  
11 that the prior arrest was for a different charge. And that  
12 that's a considerable risk, because it was for a different  
13 charge. Even though he was certainly, as far as he knew,  
14 arrested for the same thing, he was interrogated only for this,  
15 but that is a concern we have.

16 Nevertheless, your Honor, with his background, with  
17 the fact that he actually fully accepts responsibility, and not  
18 only that, legitimately he is remorseful, as is evidenced by  
19 his letter. In his letter he talks about not wanting to make  
20 excuses, but the reason he doesn't want to make excuses, which  
21 he is really talking about mitigation, which your Honor knows  
22 is not an excuse but to many people they don't understand the  
23 difference. But what he's really saying is that he understands  
24 that he committed a significant crime, and he doesn't want to  
25 excuse -- he doesn't want to make an excuse in a manner that

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1 would denigrate that crime or the victims. He wants to take  
2 responsibility because he really realizes that it was a  
3 mistake.

4 So, your Honor, I think one last -- the only last  
5 thing I would just add is that when I talk about the support  
6 that is going to take place, that he is going to have, the gang  
7 operated in the Bronx. Mr. Whitley and his family now live  
8 just a few blocks from here, your Honor, in downtown Manhattan,  
9 on the Lower East Side. He is now separated physically from  
10 the bad influences that were negatively impacting him in the  
11 past. Yet another reason -- another reason to believe that now  
12 that he has -- if he is given this opportunity by your Honor,  
13 he truly will live up to the commitments that he states in his  
14 written submission.

15 Thank you, your Honor.

16 THE COURT: Thank you, Mr. Bachrach.

17 Mr. Whitley, would you like to be heard?

18 THE COURT: You can just stand. You can stand  
19 straight up. The mic will hear you. It is a good mic.

20 THE DEFENDANT: My back would hurt.

21 I just want to say that I want to apologize to the  
22 victims of the crime. I take full responsibility for that.

23 I want to thank my family for their love and support,  
24 and the mitigation of my lawyers. And I just want to say I  
25 failed as a son, a brother and a father, but hopefully I get

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1 back together and make everything right.

2 MR. BACHRACH: He's a little nervous, your Honor, but  
3 I think that's all he wants to say.

4 THE COURT: Thank you, Mr. Whitley. I think that was  
5 what you needed to say.

6 THE DEFENDANT: Thank you.

7 THE COURT: All right. Mr. Whitley, under federal  
8 law, I'm required to consider the nature and circumstances of  
9 the offense and the history and characteristics of the  
10 defendant in deciding your sentence. In terms of you, I've  
11 considered your history and your characteristics.

12 I start with the fact that you had a challenging  
13 childhood. Your father was incarcerated for murder from the  
14 time you were 10. Your mother was a single parent raising five  
15 children. And you have learning disabilities and are ADHD.

16 That said, it appears to me that your mother was a  
17 positive role model. She was employed. She took efforts to  
18 keep you engaged to overcome your difficulties. You told me  
19 about gymnastics. I can see that would be a good thing to run  
20 some energy off of a kid that has ADHD, and you got to go to  
21 New Hampshire with the Fresh Air Fund. She put you in Catholic  
22 school for a little time as well, and I gather you went to  
23 Eagle Academy, which looks like a really good program. Put  
24 differently, although you grew up poor, you were really dealt a  
25 better hand and you had a more engaged mother than many people.

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1 I note that you have a child who is six years old.  
2 Several of the people who wrote me talk about the fact that you  
3 were an actively engaged father who shared custody with your  
4 son's mother of your child.

5 I have considered that you have no real prior  
6 convictions and you were a bit player in this gang. You  
7 apparently only participated in one bank robbery and that as  
8 the getaway driver, although you certainly were aware that  
9 other robberies were going to be or had been committed. I've  
10 also considered the fact that your employment history is, at  
11 best, limited, and you have not yet gotten your GED.

12 In addition to all of that sort of history and  
13 circumstances of the defendant, as well as the guideline range,  
14 I am required to impose a sentence that is reasonable and no  
15 greater than necessary to accomplish the goals of sentence. I  
16 have considered all of the required factors.

17 Among the most important I have considered starts with  
18 the seriousness of the offense. I appreciate that you only  
19 committed one robbery and you got relatively little money, but  
20 the amount of proceeds was not really within your control.

21 And I also appreciate that while an unarmed bank  
22 robbery is less serious than an armed bank robbery, I agree  
23 with Mr. Adams that the people in the bank did not know that it  
24 was an unarmed robbery, and I am confident that they were  
25 absolutely petrified.

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1 I have considered the need to provide just punishment  
2 for this offense while avoiding unwarranted disparities. I  
3 have taken into account the fact that I have more than 30, I  
4 think, Young Gunnaz to sentence and that many were engaged in  
5 far, far more serious crimes than this one. I view you,  
6 Mr. Whitley, as most similar to Mr. Geronimo and Mr. Gallimore.

7 I have considered the need to deter criminal conduct.  
8 Mr. Whitley, deterrence has two aspects -- specific deterrence,  
9 meaning deterring you, and general deterrence, meaning  
10 deterring society at large. In terms of specific deterrence, I  
11 am concerned that the lure of the street is going to be strong.  
12 I think it's helpful that you are no longer living up in the  
13 Bronx and that you are now down on the Lower East side, but you  
14 are going to have to be vigilant to avoid getting back with  
15 your old buddies or falling in with people on the Lower East  
16 Side who are doing the same thing. That's going to be on you.  
17 You've got to have the strength of character to say I've spent  
18 15 months in jail and I don't ever want to go to jail again.  
19 And that's on you.

20 I am struck by the fact that two of the people who  
21 wrote to me, your sister Tiffany -- is Tiffany here?

22 A SPECTATOR: No.

23 THE COURT: OK. And Carol Ford, who is a friend of  
24 yours, wrote about the hope that you will not continue the  
25 cycle of sons not having their father present. I agree that

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1 the statistics are heartbreaking.

2 That choice, Mr. Whitley, is entirely in your hands.  
3 If you want to be there for your little boy, you can be there.  
4 But you've got to do it.

5 In terms of general deterrence, I think it is  
6 important to send a message far and wide that the sort of  
7 criminal conduct that you got involved in, organized criminal  
8 conduct, that terrorizes and destroys neighborhoods has got to  
9 stop. It's incumbent on everybody, young men, to avoid the  
10 pull; young women, who will say to their young men, no, don't  
11 do it, get away, but that message has got to be sent -- that if  
12 you get involved with this sort of criminal conduct, you are  
13 going to spend substantial years -- not months, but years -- in  
14 federal prison.

15 Now, I've considered the need to provide you with  
16 needed educational or vocational training, medical care, or  
17 other correctional treatment. In terms of you, Mr. Whitley, I  
18 see three needs, which I think you recognize each of them, and  
19 that's positive.

20 In terms of education, I entirely endorse the notion  
21 that you need to get your GED. But I would say you also need  
22 to learn a trade or other employable skills. Learn how to do  
23 something so that you can get out of minimum-wage jobs. Get a  
24 job that will pay you well. There are a lot of apprenticeship  
25 programs in this city that will teach you a trade, and I

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1 recognize that your antsy and that you've got attention  
2 deficit, but you know what, if you are working on a site and  
3 you're learning how to do electrical work or plumbing or things  
4 like that, that is going to keep you engaged, and I think you  
5 can do that if you try. So I encourage you to do that.

6 I think you need drug treatment. I think you have  
7 been self-medicating and that's a problem. It is very  
8 difficult to stay out of trouble and to stay employed and be a  
9 good role model for your little boy if you are strung out on  
10 drugs. So you've got to deal with your drug problem.

11 And I also am going to say it is mental health but I  
12 don't know what the standard of care is for an adult who has  
13 ADHD. I don't know whether they still say the best answer is a  
14 drug like Ritalin or Adderall or something like that, but  
15 whatever it is, you need to get it so that you can stay focused  
16 and stay out of trouble.

17 Taking all of this into account and the fact that you  
18 have already served 15 months in jail and you are a first  
19 offender, I do not think further jail time is necessary to  
20 satisfy the goals of sentencing. So I'm going to sentence you  
21 to time served and three years of supervised release.

22 Mr. Whitley, I want you to consider supervised release  
23 not as punishment, although it is an aspect of punishment, but  
24 use your probation officer to help you. They will know about  
25 programs that can be helpful. So think of it, think of your



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1 probation officer as someone who can help you, and I think that  
2 will (a) make the three years go faster and (b) it will make  
3 you more successful with your supervised release.

4 There are mandatory conditions of supervised release.

5 You must not commit another crime. You may not  
6 illegally possess a controlled substance. You cannot possess a  
7 gun or other destructive device.

8 I am going to suspend mandatory drug testing because I  
9 am going to order drug treatment as part of your supervised  
10 release.

11 You must cooperate in the collection of DNA.

12 In addition to the standard conditions of supervision,  
13 I am imposing the following special conditions:

14 You must submit your person, residence, place of  
15 business, vehicle, or other premises or electronic devices  
16 under your control to search if the probation officer has  
17 reasonable belief that contraband or evidence of a violation of  
18 the conditions of release may be found there. Any search must  
19 be conducted in a reasonable time and in a reasonable manner.

20 Failure to submit to a search may be grounds for  
21 revocation, and you must inform the other residents of the  
22 premises that they may be subject to search pursuant to this  
23 condition.

24 You must participate in outpatient drug treatment as  
25 approved by your probation officer, which may include testing

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1 to determine whether you have reverted to the use of drugs or  
2 alcohol. You must contribute to the cost of services based on  
3 your ability to pay and the availability of third-party  
4 payment.

5 The court authorizes the release of drug treatment  
6 evaluations and reports, including the plea sentence report, to  
7 the drug treatment provider.

8 The defendant must participate in an outpatient mental  
9 health treatment program as directed by the probation officer.  
10 You must continue to take any prescribed medication unless you  
11 are otherwise instructed by your mental health provider. Here  
12 again, you must contribute to the cost of services rendered  
13 based on your ability to pay and the availability of  
14 third-party payments.

15 The Court authorizes the release of available  
16 psychological and psychiatric evaluations and reports,  
17 including the presentence report, to the healthcare provider.

18 You must perform 100 hours of community service for  
19 every year on supervised release.

20 Community service must be approved by the probation  
21 officer, and I am going to recommend that it be focused on  
22 working with at-risk youth.

23 I am going to ask you to write me a letter every six  
24 months telling me how you are doing. You have the ability to  
25 write a nice letter.

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1 THE DEFENDANT: Yes, I do.

2 THE COURT: So I want to know how you are doing. OK.  
3 Your first letter is due October 30, 2017, and then every six  
4 months after that.

5 You must provide your probation officer with access to  
6 any financial information, and you may not incur new credit  
7 card charges or open new lines of credit without the permission  
8 of your probation officer unless you are in compliance with  
9 your payment of restitution.

10 You must report to the nearest probation officer  
11 within 72 hours of today.

12 You must be supervised by the district of residence.

13 Mr. Adams, I was given an order of restitution, and  
14 the amount on it does not match what was in the probation  
15 report, so which is correct?

16 MR. ADAMS: This is correct, your Honor. The  
17 difference has to do with the amount that was previously seized  
18 from Mr. Whitley. So, the amount in the order -- and I am  
19 asking for this both for restitution and for forfeiture  
20 purposes -- is the amount that was taken less \$380.

21 THE COURT: Less what was already recovered?

22 MR. ADAMS: Correct. So \$5,370.

23 THE COURT: So I am ordering you to pay restitution in  
24 the amount of \$5,370, and ordering you to forfeit \$5,370. That  
25 amount is joint and several, meaning you and the other people

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involved in that robbery are responsible for that amount of money. That is not all on you.

I am not imposing a fine because I find there is no ability to pay a fine.

I must impose a \$100 special assessment.

MR. BACHRACH: Your Honor, can I have a minute with the prosecutor? I apologize.

THE COURT: Sure.

MR. BACHRACH: Thank you.

(Pause)

Thank you, your Honor. I just wanted to ask, because I only looked at that restitution order very briefly. I just wanted to make sure that restitution and forfeiture are both imposed jointly and severally with the codefendants that were also implicated on that January 29th robbery.

THE COURT: I think that all of the financial requirements are joint and several; correct, Mr. Adams?

MR. ADAMS: That is correct, your Honor. We are asking that that be the case for everybody in the case.

THE COURT: OK.

MR. BACHRACH: Thank you.

THE COURT: It is not going to incur interest.

MR. BACHRACH: Thank you, your Honor.

THE COURT: OK. I am not imposing a fine because there is no ability to pay.

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1 I must impose a \$100 special assessment.

2 Are there any open counts?

3 MR. ADAMS: Your Honor, we move to dismiss any open  
4 counts and underlying instruments.

5 THE COURT: They are dismissed.

6 All right. Mr. Whitley, to the extent you have not  
7 given up the right to appeal through your plea of guilty and  
8 the agreement you entered into with the government in  
9 connection with that plea, you have the right to appeal. If  
10 you are unable to pay the cost of an appeal, you may apply for  
11 leave to appeal in forma pauperis. The Notice of Appeal must  
12 be filed within 14 days of the judgment of conviction.

13 Anything further, Mr. Adams?

14 MR. ADAMS: Nothing here, your Honor.

15 THE COURT: Mr. Bachrach.

16 MR. BACHRACH: Just a brief clarification. The letter  
17 that you would like Mr. Whitley to send every six months, would  
18 you like him to send it directly to your Honor, or do you want  
19 him to send it to me first and I will forward it?

20 THE COURT: He should send it directly to me. We will  
21 give him the address.

22 MR. BACHRACH: Thank you, your Honor.

23 THE COURT: You are going to be relieved of your duty  
24 to supervised him.

25 Mr. Whitley, every six months I want to hear from you.

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1 I want to hear how you are doing. I want to hear how your  
2 little boy is. I want to hear that you got a job. OK?

3 THE DEFENDANT: Thank you, your Honor.

4 THE COURT: All right. Thank you all and good luck.

5 MR. BACHRACH: Thank you, your Honor.

6 MR. ADAMS: Thank you, your Honor.

7 - - -